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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES TO THE COVENANT

REPLIES BY THE GOVERNMENT OF NORWAY TO THE LIST OF ISSUES (CCPR/C/NOR/Q/5) TO BE CONSIDERED IN CONNECTION WITH EXAMINATION OF THE FIFTH PERIODIC REPORT OF NORWAY (CCPR/C/NOR/2004/5)

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I. Right to self-determination (art. 1)

1. Please provide further information on the outcome of the working group established to prepare a proposal on how to increase parliamentary decision-making power of the Sameting in areas affecting the Sami population in Norway. (Fifth periodic report, para. 4 and 239 and previous concluding observations, para. 17).

1. The working-group established in May 2004 by the Ministry of Local Government and Regional Development and the Sameting presented its report and recommendations on 20 April 2005. Based on these recommendations, the Minister of Local Government and Regional Development and the President of the Sameting entered into a formal agreement on 11 May 2005 which sets out procedures for consultation between central government authorities and the Sameting.

The purpose of the agreement is to:

- Ensure implementation of the Central Government's obligations under international law to consult indigenous peoples.
- Facilitate agreement between government authorities and the Sameting whenever consideration is being given on issues concerning the implementation of legislation or measures that may directly affect Sami interests.
- Promote the development of a partnership perspective between central government authorities and the Sameting that strengthens Sami culture and society.
- Develop joint understanding of the situation and developmental needs of the Sami community.

The main provisions of the agreed consultation procedures are that:

- Central government authorities must provide full information on matters that may directly affect the Sami and take into consideration all relevant concerns at all stages of dealing with such matters.
- Central government authorities must inform the Sameting about matters that may directly affect Sami interests as early as possible.

- The Sameting must, as quickly as possible after it has been informed about such matters, give notice if it desires further consultation.
- The Sameting shall also be able to suggest matters for consultation with central government authorities.

2. If central government authorities and the Sameting agree that further consultation should take place on a specific matter, they must attempt to agree on a plan (which should include dates and venues for further meetings), for such consultations. Sufficient time must be allowed for genuine consultation and consideration of the political implications of proposals. Any plenary consideration of a matter of concern to the Sameting must take place as quickly as possible.

   Consultations between the Sameting and the Government are not to be discontinued while both parties consider that it is still possible for agreement to be reached.

3. In matters dealt with by the Government, the extent to which agreement with the Sameting has been reached must be clearly stated in submissions to affected ministries. Where the positions of the Government and the Sameting differ, the position and any assessments of the Sameting must be set out in any proposals or reports submitted to the Storting.

4. The consultation procedures apply to the Government and all ministries, directorates and other subordinate agencies.

5. The consultation procedures apply in all matters that may directly affect Sami interests. The substantive scope of consultations may include various types of matters, such as acts, regulations, individual governmental decisions, guidelines, administrative measures and other decisions (e.g. those contained in reports to the Storting).

6. The consultation obligation covers all tangible and intangible forms of Sami culture. Matters affecting the tangible cultural basis, such as land disposal, land encroachment and land rights, the geographical scope of consultations covers the counties of Finnmark, Troms, Nordland and Nord-Trøndelag (i.e. the traditional Sami areas), as well as municipalities in neighbouring counties where Sami interests, such as reindeer breeding, could be affected.

7. General matters that affect society as a whole will not, in principle, be subject to the consultation obligation.

8. Consultation-related information exchanged between central government authorities and the Sameting may be exempted from public disclosure when authorized by law. Generally, however, freedom of information must be practised. The respective final positions of the parties must be made public. The Government has proposed revised legislation to authorize exemptions from public disclosure of information related to consultations with the Sameting.

9. Minutes are to be kept of all consultation meetings between central government authorities and the Sameting. Such minutes are to include a brief account of the matter under discussion, the respective assessments and positions of the parties and any conclusions reached.

10. Consultations with the Sameting must take place in good faith and with the aim of reaching agreement on proposed measures.

11. In order to promote greater knowledge and understanding of Sami affairs and develop more advanced statistical data, the Ministry responsible for Sami affairs and the Sameting are jointly to appoint a specialist analysis group which, inter alia on the basis of Sami statistics, will produce an annual report on the situation and developmental trends of the Sami community. The report will be used as the basis for consultation on any specific matters of concern, as well as the general consultatio on the developmental needs of the Sami community which takes place during the bi-annual meetings between the Minister responsible for Sami affairs and the President of the Sameting.

12. When central government authorities or the Sameting decide to commission studies intended to strengthen the factual or formal basis for assessments and decisions affecting the Sami community, that decision is to be made known as early as possible. The terms of reference for those carrying out such studies must be included in the consultation process. The Government and the Sameting must seek to reach agreement on both the terms of reference and the individual or institution that is to conduct a given study. The Government and the Sameting are obliged to provide such information and materials as those carrying out studies may require.

13. Where the Government plans to consult local Sami communities and/or specific Sami organizations or interests that may be directly affected by proposed legislation or other measures, the Government must give notice of the interests or organizations it considers to be affected by the matter as early as possible and discuss the coordination of the consultation process with the Sameting.

14. The agreement between the Minister of Local Government and Regional Development and the President of the Sameting has been approved by the Sameting, and was confirmed by Royal Decree on 1 July 2005.

II. Constitutional and legal framework within which the Covenant is implemented (art.2)

2. It is reported that on 15 June 2004 the Parliament removed the right to free legal aid for asylum seekers before the Directorate of Immigration, which handles the cases in the first instance. Has the State party undertaken steps to ensure the access to effective legal remedies inter alia, to offer asylum seekers free legal aid at all stages of their application?

15. In 2005, the Norwegian Government made changes to the system for legal assistance for asylum seekers. The changes were made as a result of an external evaluation of the old system, which showed that lawyers did not give asylum seekers sufficient legal assistance during the processing of applications at first instance by the Norwegian Directorate of Immigration (UDI).

16. The new system replaces legal advice from lawyers in first instance applications with the provision of general information and an offer for individual assistance from a Norwegian non-governmental organization (NGO), namely NOAS, the Norwegian Organization for Asylum Seekers. Unaccompanied minors, however, additionally receive legal assistance from a lawyer in their first instance applications. If an application for asylum has been rejected at first instance, the asylum seeker receives five hours of free legal assistance, from a lawyer, in preparing an appeal. Under the old system, only three hours of legal assistance were provided at this stage.

17. The Norwegian Government is of the opinion that the new system gives asylum seekers better and more thorough legal assistance through all stages of an application. This opinion is supported by a report made by the independent research institution SINTEF (the Foundation for Scientific and Industrial Research at the Norwegian Institute of Technology) on the information provided to asylum seekers in the initial phase of their application.

3. Have new factors emerged since the submission of the fifth periodic report that would allow Norway to envisage a complete withdrawal of its reservation to article 14, article 10 paragraphs 2(b) and 3, and to article 20, paragraph 1? (Previous concluding observations, CCPR/C/79/Add.112, para.12 and periodic report, para. 162)

18. No new factors have emerged to this effect since the submission of the fifth periodic report. However, re-examination of the justifications for the reservation to Article 14, para. 7 will take place, most likely in connection with the follow-up of a study by a government-appointed committee on the current sanctions regime in Norway (NOU 2003:15: "Fra bot til bedring: Et mer nyansert og effektivt sanksjonssystem med mindre bruk av straff").

19. Regarding Article 10, it is important to note that due to the relatively small number of under-age prisoners in Norwegian correctional facilities, their separation from the adult prison population would often result in a lack of interaction with fellow prisoners and thus limit their social interaction to contact with the prison staff. Additionally, if special institutions were established for these prisoners, they might have to serve their sentences further away from their families than would have been the case if local prisons had been used. However, the Government is currently considering the establishment of special wings or institutions for this category of offenders, so as to provide them with a regime better suited to their specific needs.

III. Counter-terrorism measures and respect of Covenant guarantees

4. Please provide a detailed account of legislative measures adopted in relation to terrorism in pursuance of Security Council resolution 1373 (2001), in particular those measures that may affect the rights guaranteed under the Covenant. Please give an account of cases in which those measures have been invoked. Please also provide information on the proposed amendments to the Alien Act on the basis of Security Council resolution.

20. The Penal Code, Criminal Procedure Act, Security Act, Immigration Act, Financial Institutions Act and other relevant acts, as well as supplementary regulations, have been examined to ensure that the requirements of Resolution 1373 are fully met. On 17 June 2002, the Norwegian Parliament passed a bill containing amending legislative measures aimed against acts of terrorism and the financing of terrorism. The amendments were sanctioned on 28 June 2002, and took effect immediately.

21. The new legislation made it a serious criminal offence to commit or finance directly or indirectly any terrorist acts. Furthermore, in accordance with the provisions of Resolution 1373, it requires Norwegian authorities to immediately freeze any assets or funds belonging to any person or entity suspected of such acts.

22. Section 147a of the Penal Code makes any person who commits a terrorist act criminally liable. The section reads as follows (translation):

"Such criminal act as is mentioned in section[s] 148, 151a, 151b first paragraph, cf. third paragraph, 152 second paragraph, 152a second paragraph, 152b, 153 first to third paragraphs, 153a, 154, 223 second paragraph, 224, 225 first or second paragraph, 231, cf. 232, or 233 is considered to be a terrorist act and is punishable by imprisonment for a term not exceeding 21 years when such act has been committed with the intention of:

a) seriously disrupting a function of vital importance to society, such as legislative, executive or judicial authority, power supply, safe supply of food or water, the bank or monetary system or emergency medical services or disease control;
b) seriously intimidating a population; or
c) unduly compelling public authorities or an intergovernmental organization to perform, tolerate or abstain from performing any act of crucial importance for the country or organization, or for another country or another intergovernmental organization.

The penalty may not be set below the minimum penalty prescribed in the penal provisions mentioned in the first sentence.

Any person who, with such intent as is mentioned in the first paragraph, threatens to commit such criminal act as is mentioned in the first paragraph under such circumstances that the threat is likely to provoke intense fear is liable to imprisonment for a term not exceeding 12 years. If the threat has such consequences as are mentioned in the first sub-paragraph a, b or c, imprisonment for a term not exceeding 21 years may be imposed. Accomplices shall be liable to the same penalty.

Any person who plans or prepares such terrorist act as is mentioned in the first paragraph by conspiring with another person for the purpose of committing such an act shall be liable to imprisonment for a term not exceeding 12 years."

23. The first paragraph of section 147b of the Penal Code creates criminal liability for terrorist financing, and reads as follows (translation):

"Any person who obtains or collects funds or other financial assets with the intention that the financial assets should be used, in full or in part, to finance terrorist acts or any other contravention of the provisions of section 147 a shall be liable to imprisonment for a term not exceeding 10 years."

The second paragraph of section 147 b makes any person criminally liable who makes funds or financial assets, or bank services or other financial services, available to:

"a) a person or entity that commits or attempts to commit such criminal acts as mentioned in section 147a;

b) any entity owned by such a person as mentioned above over which he has control; or

c) any person or entity that acts on behalf of or at the direction of such person or entity as mentioned above."

The penalty is imprisonment for a term not exceeding 10 years. Accomplices are liable to the same penalty.

24. Section 147 b must be read in conjunction with section 147 a of the Penal Code. Under Norwegian law, a person who finances terrorist acts will often be considered to be an accomplice to the terrorist act itself. According to section 147 a, such an accomplice to a terrorist act is liable to imprisonment for a term not exceeding 21 years. Section 147 b will only apply when section 147 a is not applicable.

25. Section 147 b must also be read in conjunction with existing provisions relating to corporate liability. A legal person can be liable for an offence pursuant to a provision of the Penal Code, but the penalty is limited to fines. In cases related to the financing of terrorism, corporate liability may be considered as an alternative by the prosecuting authorities if an organization or financial institution is involved and it proves difficult to establish personal liability.

26. Section 12 of the Penal Code regulates the geographical applicability of the legislation. According to subsection 1(a)-(e) of section 12, the Penal Code is applicable to all acts committed within the Realm. A terrorist act may be prosecuted in Norway even if its effect only occurred, or was only intended to occur, abroad. In addition, according to subsections 3 and 4 of section 12, sections 147 a and 147 b also apply to acts committed abroad, including where the act is committed by a foreigner.

27. Provisions on freezing are contained in Chapter 15b of the Criminal Procedure Act. In this context, freezing property means preventing persons from having the property at their disposal, whether directly or indirectly, typically achieved by blocking a bank account. The main purpose of freezing property is to prevent criminal offences, and temporarily freezing all of a person's property is a means of preventing him from using the funds to carry out terrorist acts.

28. Section 202 d of the Criminal Procedure Act authorises the freezing of any property belonging to a suspect, any entity owned by the suspect or over which he has control, or any person or entity that acts on behalf of or at the direction of the suspect or such entity. The section reads (translation):

"When any person is suspected with just cause of contravening or attempting to contravene the provisions of sections 147 a or 147 b of the Penal Code, the chief or the deputy chief of the Police Security Service or a public prosecutor may decide to freeze any property belonging to:

a) the suspect;
b) any entity owned by the suspect or over which he has control; or
c) any person or entity that acts on behalf of or at the direction of the suspect or such entity as is mentioned in a) or b).

A decision may not be made to freeze property that is required for the maintenance of the person who is the subject of the decision, his household or any person he is supporting.

The decision to freeze property shall be in writing and shall identify the suspect and provide a brief account of the grounds for the decision."

29. According to section 202 e of the Criminal Procedure Act the prosecuting authority must as soon as possible, and no later than seven days after it has made a decision pursuant to section 202 d, bring the case before the court. The court will by order, decide whether the decision should be upheld. Before the court makes its order, the suspect and other persons concerned must be notified and given the opportunity to respond.

30. If strictly necessary in the interests of the investigation, the court may decide that no notice should be given to the suspected person or other persons concerned and that information regarding the order is to be provided at a later date. The court will then set a time limit for when such information must be provided. The time limit cannot exceed four weeks, but may be extended by court order for up to four weeks at a time. When the time limit or last extension expires, the suspect and other persons concerned must be informed of the order and their right to require a court decision on whether the freezing of assets should continue.

31. According to section 202 f of the Criminal Procedure Act, assets must be unfrozen without undue delay if the conditions for freezing the assets are no longer fulfilled. The freezing of assets will, at the latest, cease when a final and binding judgement is given in the case.

32. According to section 7 of The Money Laundry Act (of 20 June 2003) a financial institution which suspects that a transaction is linked to terrorism must, on its own initiative, forward any information that may indicate such an offence to the National Authority for the Investigation and Prosecution of Economic and Environmental Crime in Norway (ØKOKRIM). At ØKOKRIM's request, the financial institution is required to provide all information that ØKOKRIM considers necessary concerning the potential offence(s). A customer or third party should not be informed that such information has been forwarded.

33. In our view, none of the measures described above restrict or infringe human rights, including the guarantees granted to individuals under the Covenant. The relevant human rights requirements were discussed during the preparatory works for the legislative measures adopted in relation to terrorism (see Ot.prp. nr. 61 (2001–2002), page 22). It should also be noted that the Human Rights Act of 21 May 1999, which incorporates into Norwegian law inter alia the Covenant on Civil and Political Rights, states that the Convention rights covered by the Act prevail whenever they conflict with other legislative provisions.

34. To date, there have been no prosecutions for terrorist activities or financing of terrorism in Norway. This is not surprising, given that threat assessments indicate that terrorist-related activities in Norway are probably being carried out only on a very limited scale involving a small number of people. One investigation has been carried out on the basis of suspicion of terrorist financing. The case, however, was dropped in 2004 due to a lack of evidence. Additionally, although there has been a suspicion of terrorist financing in two cases involving Hawala banking, the issue did not become a specific subject in the investigations.

Amendments to the Immigrantion Act

35. Certain amendments have been made in the Immigration Act to ensure compliance with Security Council resolution 1373 (2001). The amendments were sanctioned 28 June 2002, and took effect immediately.

36. The amendments state that a foreign national may be expelled if he/she has violated section 147a or b of the Penal Code, or has given safe haven to a person the foreign national is aware of has committed such a crime. This is a ground for expulsion both for foreign nationals who hold a residence- or work permit, and for those holding a settlement permit cf. sections 29 first paragraph e) and 30 second paragraph c) of the Immigration Act. It is also a ground for the expulsion of EEA nationals, cf. section 58 third paragraph.

37. An expulsion decision can be appealed to the Immigration Appeals Board (UNE). In cases concerning national security or international relations the Ministry of Labour and Social Inclusion may pursuant to the Immigration Act section 38, 3rd paragraph instruct the Directorate of Immigration on the outcome of the decision. In such cases the King in Council is the instance off appeal.

38. Until present day neither of the amendments to the Immigration Act pursuant to the Security Council resolution have been invoked.

39. It is our opinion that none of the changes in the Immigration Act restrict human rights, including guarantees granted individuals under the Covenant. We would like to stress that no expulsion order will be implemented should the foreign national be sent to an area where he/she risks being subject to torture or to inhuman or degrading treatment or punishment.

IV. Prohibition of discrimination, gender equality, equality in and before the law (arts. 2, 3 and 26)

5. Please provide further information regarding the law on the prohibition of ethnic discrimination in all areas of society. Has it entered into force? (Fifth periodic report, para 236) Furthermore, has the State party taken any steps to ensure that foreigners and persons of immigrant background enjoy genuinely equal opportunities in employment and housing as the rest of the population in Norway?

Legislation and enforcement

40. An Act prohibiting discrimination based on ethnic origin, religion etc. (the Anti-Discrimination Act) was adopted by the Storting on 3 June 2005, and entered into force on 1 January 2006.

41. A second Act, on the Equality and Anti-Discrimination Ombud and the Equality and Anti-Discrimination Tribunal, was adopted by the Storting on 10 June 2005 and entered into force on 1 January 2006. The new Equality and Anti-Discrimination Ombud was established in January 2006. The Ombud has both proactive and supervisory functions in relation to the new Anti-Discrimination Act and other civil legislation in the anti-discrimination field, such as the Gender Equality Act and anti-discrimination regulations in the Working Environment Act and in housing legislation. The new mechanism (Ombud and Tribunal) will make decisions on individual cases concerning discrimination. The former Gender Equality Ombud, the Gender Equality Centre and the Centre for Combating Ethnic Discrimination (SMED) have been incorporated into the new ombudsman mechanism. In this way, a simple, easily accessible system for complaints will be established, to which those who consider themselves discriminated against contrary to the Anti-Discrimination Act may submit their cases. The Ombud will also monitor the implementation of the Anti-Discrimination Act.

42. The Ombud is to encourage employers to avoid ethnic discrimination and promote ethnic equality in their enterprises. The Ombud will also establish a consultancy and advisory service that is to be offered free of charge to individual employers in both private and public

enterprises. An important function will be to promote best practice by providing examples and methodology guidance and helping to improve knowledge in the field.

Measures taken to increase the participation of immigrants in the labour market

43. In order to increase the participation of immigrants in the labour market, the Government has built upon what was originally a trial scheme. All central government agencies are now required to interview at least one applicant with immigrant background when making new appointments, provided that the applicant is qualified. In the period between 1 June 2004 and 1 June 2005, approximately 1 600 individuals with a non-western immigrant background were interviewed pursuant to this requirement. Of these, 430 were employed, constituting 28% of those interviewed.

44. Among efforts to increase ethnic diversity in working life, as described in the Plan of Action to Combat Racism and Discrimination (2002-2006), is the establishment of the Employment Policy Council. High-level representatives of trade unions and employers' organizations participate in the Council's activities on an equal footing. National organizations working on immigrant issues and other institutions with expertise in this area are also invited to participate in meetings relating to ethnic diversity in working life. The goal is to follow up and further develop diversity in the labour market, promote the sharing of experiences and the dissemination of knowledge on this subject, and to plan and implement measures to increase ethnic diversity in working life.

45. A diversity prize will be awarded each year to an enterprise that excels in producing successful initiatives to promote ethnic diversity in the workplace. The prize, which is presented by the Forum for Ethnic Diversity in Working Life, was first awarded in 2005.

46. The Introduction Scheme Act has been obligatory for municipalities since 1 September 2004. It regulates the Introductory Programme, which is initiated as soon as possible (and in any event no later than three months) after an immigrant settles in a municipality. Municipalities are required to offer the Programme to immigrants between the ages of 18 and 55, refugees, persons granted residence on humanitarian grounds, and to those who have immigrated under Norway's family reunification regulations.

The Programme, which is adapted to each individual and his or her previous education and working experience, is aimed at providing basic Norwegian skills, an insight into Norwegian society, and preparing the individual for participation in working life and/or education. The programme should last as long as is needed for each individual, subject to a maximum

duration of two years. Each individual is set his or her own goal and, as soon as the goal is reached, he or she may leave the programme.

Participants are required to attend the programme full-time throughout the year, and are entitled to social security support, called "introduction benefit", whilst attending. The benefit is the same for all the participants.

"The Second-Chance Programme"

47. Since March 2005, the Government has funded the Second-Chance Programme as a part of the Plan of Action for Combating Poverty. The target group is immigrants who, after several years in Norway, have still not found permanent employment, and are therefore dependant on social security support. Based on the principals and methods of the Introductory Programme discussed in paragraph 43 above, 13 trial projects were started in 2005. Municipalities with the highest percentage of immigrants among their inhabitants were allowed to apply for funds. The trial projects are all particularly aimed at women. The Programme continues in 2006.

48. The Programme's aim is to establish a long-term contact with working life. The aim is to assist immigrants with language training (if needed) and other measures that prepare them for participation in the job market. The Programme is run on a full-time basis, and an individually adapted plan is drawn up on the basis of each person's training needs. As in the Introductory Programme, a participant in the Second-Chance Programme is entitled to "introduction benefit", which is the same for all participants.

Measures taken to increase the participation of immigrants in the housing market

49. As stated in the fifth periodic report, Norway strengthened legal protection against discrimination in the housing market by amending existing housing legislation in May 2003. The newly-established Equality and Anti-Discrimination Ombud will monitor actual developments in the housing market and will be able to assist in achieving the zero-tolerance target set for the housing sector in relation to ethnic and all other forms of discrimination.

50. A monitoring system was introduced in the State Budget for 2006. The Government's goal is security of tenure for all immigrants, effective protection against illegal eviction and

protection of immigrants against exclusion from the housing market. Two indicators have been identified thus far: 1) the proportion of immigrants who receive housing allowance; and 2) the number of homeless people with a non-western background.

51. Individual housing allowance from the State Housing Bank is the single most important measure helping to prevent homelessness and exclusion. Immigrants are overrepresented as recipients of the allowance (approximately 20 percent compared to four percent of the total population). Recent figures indicate that differences between immigrants and Norwegians are decreasing. Whereas in 2001 23 percent of immigrants received housing allowance, in 2002 the figure dropped to 19 percent.

52. In addition, homelessness among immigrants is declining in both relative and absolute terms. In 1996, of a total of 6 200 homeless people in Norway, 14 percent had a non-western background. This figure dropped to 11 percent of a total of 5 200 homeless people in 2003. These figures indicate that an increasing number of immigrants is being included in the ordinary housing market, and that the measures taken by the Government to promote awareness of, and focus on, the issue are working. Future surveys on housing in Norway will pay special attention to the immigrant situation.

6. What measures has the State party undertaken to address the Committee's concern about "alleged lack of proper reaction from law enforcement officials in cases of racial discrimination!? Please provide examples on recent developments in this regard. (Previous concluding observations, para. 15)

53. The National Plan of Action to Combat Racism and Discrimination (2002-2006) included a number of specific measures concerning the police, which have now been introduced. They include the following:

- Increased police awareness and knowledge of minority-related issues.
- The establishment of a forum for dialogue between the Directorate of Police and representatives of relevant NGOs.
- The establishment of local forums in every police district.
- Increased recruitment of ethnic minorities into all levels of the police service.
- Visible identification numbers on police uniforms, introduced to enable the public to identify individual police officers with whom they have been in contact.

54. In addition, the Government has established specialist units within the public prosecuting authority to provide expert assistance in this field. Each public prosecutor's office now has a

specially-trained lawyer who is responsible for ensuring coordination between the police and the public prosecuting authority in cases involving ethnic discrimination and/or racially motivated harassment or violence.

55. The Government has also promoted further training for judges on topics such as racism and discrimination.

56. Although progress has been made in these areas, various challenges remain. In order to further improve the situation, the National Police Directorate has recently established a project aimed at collecting the experiences of relevant bodies and working proactively to find and stamp out any discriminatory behaviour occurring within the police force.

57. To ensure the continued promotion of the aims of the Plan of Action beyond 2006, the Ministry of Labour and Social Inclusion has initiated work on a new plan of action on the themes of integration and inclusion. Although the plan is still at a preliminary stage, the Ministry of Justice has also begun work on related matters. Much of the work that was started as a result of the present Plan of Action will be continued. In addition, there will be an increased focus on how the police relates to people with an ethnic minority background.

58. White Paper no. 42 (2004-2005) on the roles and tasks of the Norwegian police includes the following paragraphs (translation):

"6.2.4 The Multicultural Society

Racially motivated crime is to be taken seriously and given high priority by the police and prosecuting authority.

Individuals who are subject to discrimination, racially motivated violence or harassment must be met with the same level of respect and understanding as others who are victims of criminal acts. The police must increase their awareness and knowledge of minorities in relation to changes in the population and the needs of groups with ethnic minority backgrounds. It is important that recruitment to the police reflects population changes.

Reported cases concerning discrimination, racially motivated violence or harassment must not be dismissed except as the result of a fair and unbiased assessment of the case in question. The police

and the prosecution authorities must ensure a high level of professionalism and rapid follow-up in this area."

7. Has the State party undertaken any measures to end discrimination against women in the labour market, in particular disabled women and women of ethnic background?(Fifth periodic report, para. 36)

Amendments to the Gender Equality Act

59. In 2005, the Norwegian Parliament adopted several amendments to the Gender Equality Act. The amendments were occasioned by the incorporation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and implementation of EU Council Directive 2002/73/EC on equal treatment of men and women with regard to work.

60. The amendments include a ban on reprisals against a person who files or intends to file a complaint about a breach of the Act. The sexual harassment provision has been extended to prohibit harassment on the grounds of sex, and now includes a prohibition on issuing instructions to discriminate or harass. Further, the general rule on a shared burden of proof has been enlarged to cover both harassment on the grounds of sex and sexual harassment and discrimination outside the workplace. This means that where there are circumstances that give grounds for believing that discrimination has occurred, such discrimination will be regarded as proven, unless the person who committed the act can prove that the discrimination did not occur. Finally, the provision on liability for damages has been enlarged to cover harassment on the grounds of sex and sexual harassment. Thus, any jobseeker or employee who has been subject to conduct contrary to the Act is entitled to compensation, even where the employer did not know of such conduct, i.e. the employer is strictly liable for the actions of his employees. The Amendments came into force on 1 July 2005.

Equal pay for work of equal value

61. Norway is seeing positive developments towards gender equality in the labour market and the economy generally. At the same time, it is clear that high levels of education and workforce participation do not automatically lead to equal pay. The overall wage gap has

been relatively stable in the last 10 years, with an average difference of 16 percent between the hourly pay of men and that of women. This wage gap can be explained by reference to the fact that the occupations dominated by women are less well-paid than male-dominated occupations. Women and men therefore have differing access to well-paid positions. In addition, there is a high prevalence of part-time work among women. Whilst some women prefer to work part-time, others do so only because they have no opportunity to work full-time. In 2004, 69 percent of all women aged 16-74 were in the workforce.

62. According to the Gender Equality Act, women and men in the same workplace have the right to *equal pay for work of equal value.* The Act allows comparisons to be made across occupational boundaries and collective wage-agreements. The Equality and Anti-Discrimination Ombud checks to ensure that there is no contravention of this provision and the Equality and Anti-Discrimination Tribunal may prohibit any act that is in contravention of it. Furthermore, public authorities, all employers and all workers' and employers' organizations are required to promote gender equality actively in their areas of responsibility.

63. The Ministry of Children and Equality financed a three-year job-evaluation project (which ran from 2002 to 2005) to assist in achieving equal pay. The aim of the project was to develop a gender-neutral system of job-evaluation by working closely with employers to examine the current system and measure the value of women's and men's work, and their pay. The job-evaluation project proved to be a good instrument for measuring the value of work in different occupations, both within individual workplaces and across workplaces generally. When unreasonable or unfair differences in pay were discovered, employers were willing to make individual adjustments. The main pay gap was found between different workplaces, and the project was not able to effect changes on this issue, which is strongly related to the gender-segregated labour market. The Gender Equality Ombud is now able to make use of the job-evaluation system in her enforcement of the Gender Equality Act 2002 .

64. In addition, maternity and paternity rights give women and men greater opportunities to combine work with parental responsibilities. Five weeks of the total (parental) leave on the birth of a child is reserved *exclusively for fathers*. Parents can share the rest of the parental leave, apart from the first six weeks which are reserved for the mother. In addition, the father and mother are each entitled to paid sick leave of ten days per year.

Disabled women

65. Labour market policy is formulated by the Ministry of Labour and Social Inclusion and implemented by the Public Employment Service (PES). The vocationally disabled have been designated a special target group within labour market policy. This means that they are given

priority when it comes to labour market initiatives and receive special follow-up services. Individual plans of action are being used. The relevant measures can be grouped into 1) recruitment/job-placement measures (such as wage subsidies); 2) job training; and 3) qualification (labour market training) measures. The measures are the same for women and men.

66. The new Equality and Anti-Discrimination Ombud (see paragraphs 40-41) is to enforce Norwegian anti-discrimination legislation, including the anti-discrimination regulations contained in the Labour Environment Act. These regulations prohibit discrimination in the labour market on the basis of gender and ethnic origin etc., as well as on the grounds of disability, sexual orientation, age and political convictions. The Government has high expectations of the anti-discrimination machinery, which ensures a broad and integrated approach to discrimination and has the potential to tackle all forms of discrimination, including complex cases involving multiple forms of discrimination.

Women with an immigrant background

67. Women from a non-western immigrant background have a lower rate of employment than men from an equivalent background. They are also more likely to be unemployed than native Norwegian women. In 2004, 61.1 % of male immigrants were registered as employed, as opposed to 52.2 % of female immigrants. Further, statistics show that participation in working life varies with the geographical region of origin: western immigrants have the highest employment rate, whereas immigrants from Africa have the lowest.

68. In 2004, the Ministry of Labour and Inclusion launched a pilot project to investigate barriers to participation in the labour market for immigrant women. The project report confirmed that being female and an immigrant were particular obstacles in working life. It also identified a need for further research to be carried out on the economic situation of female immigrants and the factors which reduce their participation in the labour market.

69. In 2004 and 2005, the Ministry of Local Government and Regional Development supported the "Top 10 International Women" project (which was inspired by a similar project initiated by AIPBW (Association of International Professional Businesswomen)), which recognizes successful businesswomen from non-western immigrant backgrounds. The pilot project report describes how these women became successful.

70. The legislative history of the Introduction Scheme Act (see answer to question 5 above), shows that a particular aim of the Act is to prepare immigrant women for participation in

working life. With this in mind, participation in the programme is to be strongly encouraged, also where a participant is pregnant or responsible for the care of children.

71. In addition, the importance of taking into consideration gender-related issues has been integrated into the Plan of Action to Combat Racism and Discrimination.

V. Right to life, prohibition of torture and cruel, inhuman or degrading treatment, and treatment of detainees (arts. 6, 7 and 10)

8. According to information before the Committee, due to insufficient resources and funding, some psychiatric institutions have discharged some patients who shortly after their release committed suicide or even murder. Has the State party taken any measures to remedy such situations? Please provide adequate statistics on these cases.

72. The National Mental Health Programme (St.prp. nr 63 (1997-98) – "Om Opptrappingsplan for Psykisk Helse 199[9]–2006") was adopted by the Storting in 1998. The programme has now been extended to 2008 and contains a range of strategies and measures intended to improve mental health care in Norway.

The National Mental Health Programme 1999-2008 ("Opptrappingsplanen") [aims to create better treatment facilities and care services on national, regional and local levels. As part of the Programme, regional and national services have received a 30 % budget increase between 1999 and 2006. Norway has good overall coverage of psychiatric hospital beds (about 12 for every 10 000 inhabitants). The primary challenges facing Norway are to utilize these resources in the best possible manner, to promote cooperation between the different levels of mental health services, to improve continuity of treatment and follow-up of each patient and to raise the overall standard of the services.

73. Unfortunately, Norway has no statistics regarding suicide and murder/violence cases by reference to possible prior hospitalizations in psychiatric institutions. However, it is hoped that an ongoing project at the National Institute of Public Health, which is presently investigating suicide and its causes, will contribute to greater understanding of this issue.

Important measures in progress under the National Mental Health Programme

74. A review of acute psychiatric care services will take place in the course of 2006. The review will cover treatment capacity, discharge practices and the incorrect placement of patients for

treatment. The aim is to ensure that patients are receiving sufficient follow-up, and that the accessibility of services is satisfactory.

75. About 70 local mental health centres have been established. The centres (which include in- and outpatient units, acute services etc.) cover the whole country and their establishment represents a new way of organizing specialist psychiatric care services. This decentralized model brings the psychiatric institutions closer to the patient's place of residence. The local mental health centres are intended to be a connecting link between specialized care services and municipal healthcare services. In addition, 3 400 specialist residences have been built for mentally ill individuals.

76. Crisis Resolution and Home Treatment Teams (also known as Assertive Outreach) have been established to visit outpatients, often in their home environment, in order to assess the level of care required. So-called "acute teams" seek out patients developing psychosis. Other teams [may be][are] targeted towards specific groups, such as "double diagnosis" patients, i.e. those who suffer from a combination of mental illness and drug abuse.

77. Community Mental Health Centres (CMHCs) have inpatient units, which consist primarily of patients in need of short-term treatment. Some CMHCs also have beds reserved for patients in need of long-term treatment. Improved cooperation between primary health care units, specialised psychiatric services, child welfare, local educational, labour market and national insurance authorities and other relevant sectors of society is a priority. This requires:

- Continuity of care, which in turn requires close contact between the authorities and staff involved.
- Flexibility of care, which requires combinations of outpatient, daytime, and inpatient care, adapted to patients' needs.
- Training for medical and other staff to improve knowledge of how to evaluate whether a person may have an increased risk of dangerous behaviour. The training will be carried out by specialist centres within the psychiatric care system.

9. How often and under what circumstances is solitary confinement authorized? Please provide information about medical and psychological treatment for persons in solitary confinement and training of penitentiary personnel on proper procedures for safeguarding prisoners' welfare.

78. Solitary confinement may be imposed by a court at the request of the public prosecutor in the context of an ongoing investigation. The legal provisions governing this are contained in the Criminal Procedure Act sections 186 and 186a as follows (translation):

"§ 186. A person who is arrested or remanded in custody is entitled to unrestricted written and oral communication with his public defender.

Otherwise, the court, to the extent that due consideration for the needs of the investigation so indicates, may by order decide that the person in custody shall not receive visits or send or receive letters or other consignments, or that visits or exchange of letters may only take place under police control. This shall not apply to correspondence with and visits from any public authority unless expressly provided in the order. The court may also decide that the person in custody shall not have access to newspapers or broadcasts or that he shall be excluded from the company of specified other prisoners (partial isolation). The court may leave it to the prosecuting authority to decide with which prisoners the person remanded in custody shall be excluded from having company.

The order shall state the manner in which the investigation will be impaired if the person remanded in custody is not subjected to the prohibition or control specified herein. It shall also be apparent from the order that use of the prohibition or control is not a disproportionate intervention.

Section 187a shall apply correspondingly.

Otherwise the provisions of Chapter V of the Prison Act shall apply.

§186 a. The court may by order decide that the person remanded in custody shall be excluded from the company of other prisoners (complete isolation) when the decision to remand him in custody has been made pursuant to section 184, second paragraph, cf. section 171, first paragraph, No. 2, and there is an imminent risk that the person remanded in custody will interfere with evidence in the case if he is not kept isolated. If the person charged is under 18 years of age a decision to impose isolation may be made only if it is especially necessary.

The court shall set a specific time limit for the isolation. The time limit shall be as short as possible and must not exceed two weeks. It may be extended by court order by not more than two weeks at a time. If the nature of the investigation or other special circumstances indicate that a review of the order after two weeks will not lead to it being lifted, and the person charged has reached 18 years of age, the time-limit may be extended by not more than four weeks at a time.

The person remanded in custody may not be kept isolated for a continuous period of time exceeding:

a) Six weeks when the charge relates to a criminal act punishable by imprisonment for a term not exceeding six years. Any increase of the maximum penalty because of repetition or concurrence of felonies shall not be taken into account. If, however, the charge relates to two or more criminal acts that may jointly be punishable by imprisonment for a term exceeding six years, and strong considerations make it necessary, the person remanded in custody may continue to be kept isolated for more than six weeks.

b) 12 weeks when the charge relates to a criminal act punishable by imprisonment for a term exceeding six years. The second sentence of sub-paragraph a) above applies correspondingly. If strong considerations make it necessary, the person remanded in custody may continue to be kept isolated for more than 12 weeks.

A person under 18 years of age who is remanded in custody may under no circumstances be kept isolated for a continuous period of time exceeding eight weeks.

Section 186, third and fourth paragraphs, applies correspondingly."

79. Preliminary statistics show that there were 3 033 new remand prisoners in 2005. Of these, 1 086 were subject to restrictions. The types of restrictions were as follows:

Type of restriction	Number
Denial of correspondence	0
Denial of correspondence, visits and radio/TV	1
Denial of correspondence, visits, radio/TV and newspapers	1
Denial of correspondence, visits, radio/TV and newspapers/partial isolation	1
Denial of correspondence, visits, radio/TV and newspapers/full isolation	19
Denial of correspondence, visits and newspapers	1
Denial of correspondence and visits/partial isolation	14
Denial of correspondence and visits/full isolation	236
Denial of radio/TV	0
Denial of visits	4
Denial of newspapers	0
Restrictions on correspondence and visits, denial of radio/TV and newspapers/full isolation	4
Restriction on correspondence	0
Restriction on correspondence and denial of visits	2
Restriction on correspondence and visits	447
Restriction on correspondence and visits/partial isolation	21

Restriction on correspondence and visits/full isolation	84
Restriction on visits	3
Restriction on visits and denial of correspondence	8
Partial isolation	3
Full isolation	59
Denial of correspondence and visits	178
Total	**1086**

80. Additionally, the Correctional Services may use exclusion from company as a preventive measure under section 37 of the Execution of Sentences etc. Act, which reads as follows:

"The Correctional Services may decide that a prisoner shall be wholly or partly excluded from the company of other prisoners if this is necessary in order to:

a) prevent prisoners from continuing to influence the prison environment in a particularly negative manner in spite of a written warning;

b) prevent prisoners from injuring themselves or acting violently or threatening others;

c) prevent considerable material damage;

d) prevent criminal acts; or

e) maintain peace, order and security.

The Correctional Services shall decide on partial exclusion if this is sufficient in order to prevent acts pursuant to sub-paragraphs a) to e) of the first paragraph.

Complete or partial exclusion pursuant to the first paragraph shall not be maintained longer than is necessary, and the Correctional Services shall constantly consider whether grounds for the exclusion continue to exist.

If complete exclusion from company exceeds 14 days, a decision shall be made at the regional level whether the prisoner shall continue to be excluded. If the total period of exclusion exceeds 42 days, the measure shall be reported to the Norwegian Correctional Services. After that, reports shall be made to the Norwegian Correctional Services at 14-day intervals. Exclusion pursuant to items sub-paragraphs a) to e) of the first paragraph may only extend beyond one year if the prisoner himself or herself so wishes.

If partial exclusion from company exceeds a period of 30 days, this measure shall be reported to the regional level.

The staff shall see to prisoners who are completely excluded from company several times a day. Notification of the exclusion shall be given to a medical practitioner without undue delay.

The Correctional Services may decide that all or some prisoners shall be wholly or partly excluded from company if it is probable that an unspecified number of prisoners have committed or are in the process of committing such acts as are mentioned in the first paragraph, or if urgent building or staff conditions necessitate it. Such exclusion may be maintained for up to three 24-hour periods. The exclusion may be extended by up to three 24-hour periods by a decision made at the regional level if there are special reasons for doing so.

The Correctional Services may decide that a prisoner shall be wholly or partly excluded from company if building or staff conditions necessitate it, or if the prisoner himself or herself so wishes.

The second paragraph of section 17shall be applied in the event of exclusion from company in such departments as are mentioned in the second paragraph of section 10."

81. Preliminary statistics also show that there was a total of 12 002 new prisoners in 2005. (At any given time, there were approximately 3 000 prisoners in Norwegian prisons.) The table below shows the number of times in 2005 that restrictions were imposed by the Correctional Services under section 37 of the Execution of Sentences etc. Act. (Please note that one prisoner may have been the subject of restrictions on multiple occasions.)

Legal basis – Sec. 37	**Number**
Para. 1, subparagraph a	23
Para. 1 subparagraph b	156
Para. 1 subparagraph c	4
Para. 1, subparagraph d	116
Para. 1, subparagraph e	1510
Para. 8, 1st alternative	169
Para. 8, 2nd alternative	399

82. The prisoners undergoing such exclusion are supervised by prison staff and given employment, so as to ease the burden of this measure. Furthermore, qualified personnel provide these prisoners with the medical and psychological treatment they require.

83. During their two-year training, prison officer trainees are provided with an orientation on the symptoms, consequences and prophylactic treatment of mental reactions to exclusion.

10. According to information before the Committee, some prisoners committed suicide while in security cells or solitary confinement, and the State party provided no statistics on these cases. Please produce adequate statistics concerning deaths in detention and the assumed causes, as well as information on measures taken to prevent such cases.

84. The table below gives information on suicides committed at institutions under the control of the Correctional Services. (The data for 2005 are of a preliminary nature).

Year	Number of suicides	Assumed cause of death
1999	1	1 x hanging
2000	1	1 x suffocation
2001	4	3 x hanging; 1 x suffocation
2002	2	2 x hanging
2003	7	4 x hanging; 3 x suffocation
2004	5	5 x hanging
2005	5	5 x hanging

85. Where prison staff are aware of information indicating that a prisoner has a suicidal disposition, frequent checks are made on the prisoner when he is alone in his cell, and he receives such medical treatment as he may require.

86. When it comes to detention facilities at police stations all extraordinary occurrences must be reported to the Police Directorate. The Special Unit for Police Cases investigates all deaths that occur during detention at police stations.

87. The Police Detention Project registered three suicides between 1993 and May 2002. (In addition, there were 11 deaths from alcohol poisoning, seven from narcotic poisoning, five from combined (alcohol and narcotic) poisoning, five due to accidents, four natural deaths and three deaths where the cause was unknown.) Unfortunately, figures for the years 2003 and 2004 are not available. According to the Special Unit for Police Cases, one death was registered in 2005. It is presently under investigation.

88. The Police Directorate, in a circular dated 28 January 2003, provided guidelines for the examination by a physician of persons who are committed to police detention, and introduced a specific duty to report to the Police Directorate any injury or death that occurs in police detention. New regulations providing for a central supervision system for police detention are to be adopted soon. At the moment, communication and security equipment is being installed in detention cells. This work is scheduled to be completed by the end of 2006.

11. What steps has the State party taken to educate law enforcement officials about their human rights obligations, in light of the persistence of a high incidence of ill-treatment by police officers of detainees and suspects.

89. The course of studies leading to qualification as a Norwegian police officer takes three years, and successful candidates are awarded a bachelors degree. The course content includes criminal law, criminal procedure and public administrative law, and the textbook used includes numerous references to human rights conventions (in particular the European Convention on Human Rights and the Covenant on Civil and Political Rights). In addition, emphasis is placed on professional ethics, the teaching of which includes role-plays and other exercises. Students spend one year of the three-year course on work placement in a police district, during which time they are given personal guidance.

90. In order to further prevent ill-treatment of detainees and suspects under interrogation, the Norwegian Police Academy introduced in 2003 a newly designed training programme on investigation and interview techniques called K.R.E.A.T.I.V. The programme focuses on "information gathering techniques" with the aim to replace and eliminate more traditional "confession electing techniques". The programme is influenced by academic and practical work carried out in the British training programme called "the P.E.A.C.E. course". Efforts have been placed on pedagogical issues to enhance the police officers apprehension of the theoretical input. Results and feedback with regard to this programme have been very positive, especially since there has been a distinct need for a more systematic training programme on methods of interrogation also in Norway.

91. The Police Academy also carries out a five-week course for civil arrest personnel within the police.

12. According to information before the Committee, prisoners who are Norwegian citizens and mothers may have leave from prison when breastfeeding, whereas foreign prisoners in the same situation will generally not be given leave because of the risk of fleeing. Please comment in light of articles 10, 17 and 26 of the Covenant.

92. The Government considers flight risk a relevant factor when deciding whether to grant leave from prison to foreign prisoners who are breastfeeding. Such decisions are nevertheless made upon the facts of the individual case, since the degree of any ties to Norway will differ among foreign citizens. It is submitted that flight risk should remain a valid consideration, since the enforceability of judgements may otherwise be unacceptably compromised.

93. According to section 12 of the Execution of Sentences etc. Act, a custodial sentence may, in exceptional circumstances, be served in an institution other than a prison. Accordingly, mothers are sometimes allowed to serve a short part of their sentence with their baby or infant in a special institution for mothers. Additionally, and again subject to flight risk, the serving of a sentence will be postponed when the convicted person is pregnant or where she has given birth less than six weeks before she is due to begin serving her sentence. Exceptions are made when the individual herself wants to commence serving her sentence and the prison governor and any guardian of the child give their approval. The same applies to mothers who are breastfeeding, but only until the child is nine months old.

94. The Government does not consider it to be in the best interests of a child to permit it to stay with its parent in prison.

13. According to a study on domestic violence in Oslo in 2004, one out of six women had been subject to domestic violence at least once after reaching the age of 16. What measures has the State party taken or plans to take to eliminate such practices and to provide adequate protection to victims? Please also provide information on the number of prosecutions and convictions in cases of domestic violence. What measures is the State party taking to sensitize public officials to the issue of domestic violence? (Fifth periodic report, para. 35)

The Action Plan to Combat Violence against Women (2000-2002)

95. The Norwegian Government's first Action Plan to Combat Violence against Women ran until November 2003. The plan was a joint project between the four ministries of Justice, Social Affairs, Health, and Children and Family Affairs. The Ministry of Justice coordinated the work involved. The programme consisted of a wide range of activities to reduce domestic violence and to improve services for victims.

96. The Action Plan focused on improving existing measures and enhancing the competence of, and improving networking at a local level among, all those involved, including the police, social welfare services, childcare services and staff from shelters. In addition, investigations were made into improving research and routines for the registration of information on domestic violence. Other measures included:

- Security alarms: In 1997, a project was launched to equip all women in Norway who had previously been treated violently or threatened by their partners with security alarms. While the first generation of alarms could only be used in the home, the alarms currently in use are part of a mobile system based on a very accurate global positioning system (GPS). The alarms give immediate access to the police in an emergency. The alarm project, coordinated by the police, became permanent in 1999, and is fully financed by the Norwegian Government.

- Police coordinators: To help the police in their efforts to combat domestic violence, a new position of family violence coordinator was introduced in July 2002 and individuals recruited to the position in every police district in Norway. The coordinators have undergone special training, and a locally adapted handbook has been developed to guide their work.

- Commission on Violence against Women: In August 2001, the Norwegian Government set up a Commission on Violence against Women. The Commission submitted its final report in December 2003. It contains an overview of the issues relating to violence against women, as well as proposals for improvements to the legal system, social services, women's shelters and healthcare. The Commission also considered questions concerning children as witnesses to violence.

The Action Plan to Combat Domestic Violence (2004-2007)

97. To continue the work against domestic violence, the Norwegian Government launched its new Action Plan for the period 2004-2007 in June 2004. The Plan emphasises strengthening the types of treatment offered to women who have been exposed to violence and sexual abuse, focuses on immigrant women and the services offered to children growing up in families in which violence is practised, and is intended to reinforce the assistance available to men with violence problems. While the previous action plan generally lacked consideration of child-related issues, the new Plan gives children a central focus. It has four general objectives:

- Improving the levels of cooperation and knowledge in support services.

- Increasing awareness of domestic violence and improving the prevention of violence through behavioural change.
- Ensuring victims of domestic violence receive all necessary assistance and protection.
- Breaking down the cycle of violence by improving the treatment available to perpetrators of violence.

98. Among measures either already implemented or currently under development are the following:

- A National Centre of Competence on Violence and Traumatic Stress was established in January 2004. The Centre is the result of a merger of the Psychosocial Centre for Refugees at the University of Oslo (PSSF); the Norwegian Resource Centre for Information and Studies on Violence (VOS); the Norwegian National Resource Centre on Child Sexual Abuse (NRSB); and the Division of Disaster Psychiatry of the Medical Faculty at the University of Oslo (KKP). In addition, the organization Alternative to Violence (ATV) and the Institute for Clinical Sexology and Therapy (IKST) are affiliated with the Centre. The purpose of the Centre is to develop and spread knowledge and build competence in order to facilitate a reduction in the psychological and social impact of, and prevent, violence and traumatic stress.

- Financial support will be given to the production of an animated film, "Sinna Mann" (Angry Man). This film will, for example, be used in conversations with children and adults about domestic violence. Advice on how to use the film will be prepared.

- The Government will draw up a strategy aimed at breaking down taboos and increasing knowledge about, and awareness of, domestic violence. As a part of this strategy, the Ministry of Justice carried out a mapping of domestic violence in 2003 and 2005. The "A Week to Count" project counted the number of domestic violence-related referrals to various services nationwide. The registration is the first of its kind among the Nordic countries. The purpose of the project is to provide a "snap shot" of domestic violence and to increase public awareness of the problem. Although not scientifically based or particularly extensive, the results for 2005 showed that, during the week in question, more than a thousand enquiries were made by people experiencing violence from a family member or someone with whom they had a close relationship. In the same week, about 2 000 children were recorded as being witnesses of or affected by threats or violence from an immediate family member. In about 85 percent of the cases the perpetrator was a man.

- A pilot project has been started under which routine questions are asked about violence during maternity check-ups. The purpose of the project is to develop

methods to uncover violence. The project will include formulating routines and measures for cooperation and following up on any violence that is discovered.

- Another project has been set up to provide women's shelters and local support services with expertise and knowledge about the needs of immigrant women who are the victims of violence. A training programme will be developed, implemented and evaluated. The intention is to continue the training programme after the conclusion of the project.

- A further project aims to continue and follow up on a survey of the municipal support services available to functionally disabled female victims of violence.

- A survey has been carried out to identify the number of women who are turned away by women's shelters and the reasons for this. The survey will form the basis for an assessment of suitable measures that can be taken to help abused women with special problems, such as mental illness or drug or alcohol abuse.

- The health services that are available at a local level to victims of violence and rape will be strengthened.

- Measures will be prepared and implemented with a view to building up the health services' capabilities in relation to physical examinations, securing evidence and preparing documentation in rape cases.

- The Government has requested that the Director General of Public Prosecutions prepare a circular clarifying the routines for handling rape cases, particularly in respect of the police and prosecuting authority's cooperation with other bodies.

- The work of the police on domestic violence will be strengthened. The National Police Directorate is evaluating the family violence coordinator scheme. This evaluation will form the basis for further development of police work in this area. The statistical tools used by the police to register family violence will be improved. Personal violence alarms, restraining orders, temporary accommodation, and special protection of personal data are some of the forms of police protection that may be used in cases of domestic violence. In extraordinary cases, when other protective measures are deemed to be inadequate, permission may be given to use a false identity.

- The Government will work to prevent and combat domestic violence by increasing the focus on treatment of perpetrators, and will contribute to the systematic development of support and treatment services for them. Its objective is to prevent violence and ensure that help is available as close as possible to an individual's home or place of work.

Legal framework

99. In order to further strengthen the protection of, in particular, women and children, a revised provision relating to domestic violence entered into force on 1 January 2006. Section 219 of the Penal Code reads (translation):

§ 219. Any person who by threats, duress, deprivation of liberty, violence or any other wrong grossly or repeatedly maltreats:
a) his or her former or present spouse;

b) his or her former or present spouse's kin in direct line of descent;

c) his or her kin in direct line of ascent;

d) any person in his or her household; or

e) any person in his or her care,

shall be liable to imprisonment for a term not exceeding three years.

If the maltreatment is gross or the aggrieved person dies or sustains considerable harm to body or health as a result of the treatment, the penalty shall be imprisonment for a term not exceeding six years. In deciding whether the maltreatment is gross, particular importance shall be attached to whether it has endured for a long time and whether such circumstances as are referred to in section 232 are present.

Any person who aids and abets such an offence shall be liable to the same penalty."

100. Unconditional prosecution in cases of domestic violence was incorporated into Norwegian law as early as 1988. A criminal case may therefore be brought before the court even if the victim withdraws his or her formal report to the police.

101. Victims of sex crimes and domestic violence are, according to Chapter 9a of the Criminal Procedure Act, entitled to the assistance of a lawyer. The lawyer is remunerated by the State, and is responsible for safeguarding the victim's interests in connection with the investigation and any trial of the case.

102. Assaulted and sexually abused women can now be protected against repeated violence by the abuser. Following an amendment (of 1 January 1995) to section 222a of the Criminal Procedure Act, a person can be prohibited from entering a specific area, as well as from

following, visiting or otherwise contacting another specific person. Such protection can be obtained if there is specific reason to believe that the person will commit a criminal act against or otherwise violate the other person's right to peaceful existence. Police districts have reported that denying violent domestic offenders access to their victims has been an effective means of combating violence against women. If an order pursuant to section 222a of the Criminal Procedure Act is breached, the person breaching the order is, if certain conditions are met, arrested and remanded in custody. Chapter 17a of the Criminal Procedure Act (which includes section 222a) was revised in 2002 and 2003. The changes are intended, amongst other things, to provide better protection for those who are exposed to violence from others in their own households. Section 222a provides clear legal authority for prohibiting a person subject to such a ban from staying in his or her own home.

103. On 4 July 2003, the Norwegian Penal Code was amended to include a prohibition on forced marriage. The penalty for forcing a marriage is imprisonment for a term not exceeding six years.

Extent of domestic violence in Norway

104. The extent of domestic violence in Norway against women and children (the definition of which includes abuse of women, physical and sexual abuse of children and children as witnesses to violence), is not known exactly. However, a number of studies clearly indicate that such violence is far more widespread than initially assumed.

105. In May 2005, the results of a nationwide survey on domestic violence were presented. The Norwegian Institute for Urban and Regional Research (NIBR) conducted the survey. The survey was designed as a mail survey, and the response rate was 59.4 %. The nationwide representative sample constituted 4 618 men and women aged 20–54. In the survey, of 2 143 women who had ever had a partner, 580 (27 %) reported violence or threats during a current or prior relationship. The proportion of those 2 143 women who reported severe partner violence (e.g. attempted strangulation, use of weapons or beating the head against an object or wall) was 9.3 %.

106. As domestic violence was not specifically covered by Norwegian legislation until 1 January 2006, Norway has no statistical information on the number of cases filed, the number of prosecutions initiated or the number of convictions.

14. According to information before the Committee, the State party denies social basic rights to refugees and asylum seekers in order to force them to return to their countries of origin, even in cases where their physical integrity may be at risk. Please comment on this.

107. Norway does not deny basic social rights to asylum seekers or refugees. Neither is it correct that Norway wishes to return these individuals to their countries of origin. The procedure through which applicants go to be recognised as refugees is in accordance with the provisions of the 1951 Geneva Convention on Refugees. If successful, applicants are given a renewable Norwegian residence permit. Until they obtain recognition, they are defined as asylum seekers.

108. Every asylum seeker is offered the opportunity of staying in a reception centre, where basic needs are secured in money or in kind. If their application is finally rejected, they are no longer regarded as asylum seekers, but as persons staying illegally in Norway. Unsuccessful asylum seekers are obliged to leave Norway by a deadline set by the authorities. If they fail to comply with the deadline, the police may transport them out of the country. Norway cooperates with the International Organization of Migration (IOM) in preparing dignified returns for unsuccessful asylum seekers. However, some unsuccessful asylum seekers refuse to return to their country of origin, or to cooperate with IOM or the Norwegian authorities in arranging the necessary travel documents.

109. It is an aim of the Norwegian Government to maintain an asylum system which adequately takes care of those who are in need of international protection. A rejection of the application for asylum means that the applicant is not in need of international protection. Norway does not want the asylum system to be used for other kinds of migration.

110. Some unsuccessful asylum seekers cannot be sent home to their country of origin by the police, either because of a lack of cooperation by the asylum seeker in obtaining the necessary identity documents, or because of a lack of cooperation by the country of origin in issuing the necessary documents or allowing their citizens back into the country. These persons are offered accommodation in reception centres in spite of their status as illegal residents. This was introduced in October 2005, and is a temporary solution until a specifically designed centre for rejected asylum seekers is established. As at the end of 2005, 158 unsuccessful asylum applicants had been offered accommodation in reception centres.

Social services

111. Non- nationals not residing in Norway are as a main rule not eligible for social services under the Social Services Act. These persons are only eligible for emergency social assistance until they are able to leave the country. There are however exceptions to this rule. The Social Services Act can apply to a non-national without a residence permit if Norway has entered into an agreement with the person's country of origin. The provisions of the Social Services Act also apply to persons permitted to stay in Norway until their application for residence permit is finally decided upon. Every person present in the territory (whether legally or illegally) is to be given information, advice and guidance which can help to resolve or prevent social problems.

Work

112. According to the Immigration Act, a person who has his or her application for asylum rejected can get a temporary work permit pending return to his or her country of origin. However, the authorities' practice regarding the granting of such permits is strict. It is also important to keep in mind that the temporary permit will give the person in question a right only to take work, and not to anything else (cf. Article 17, paragraph 6 of the Immigration Act).

113. Illegal immigrants generally have no rights to social security benefits. However, persons who can legally take up work in Norway will be compulsorily insured under the national insurance scheme and have normal social security rights as long as the job lasts. An unsuccessful asylum seeker may claim social security assistance, for medical treatment during the period between rejection of the asylum application and actually leaving Norway, provided that the need for treatment is acute.

VI. Prohibition of slavery (art. 8)

15. According to information before the Committee, Norway may have become a country of destination or transit for trafficking in women and children. Please provide any available information regarding the number of women and children that may have been trafficked, as well as information on existing programmes to respond to this problem. In particular, please provide information on any cases in which individuals have been charged for such trafficking. Does the State party envisage granting residence permits to witnesses or victims of trafficking?

The extent of human trafficking in Norway

114. Norway is a country of destination for trafficking in human beings, and there are indications that human trafficking to, and organized prostitution in, Norway are increasing. Foreign criminal networks are establishing themselves in Norway, and cooperating extensively with Norwegian citizens. There are also indications that Norway and the other Nordic countries might be being used as transit countries by criminal networks which organize human trafficking, including that of children, to countries in Central and Southern Europe.

115. The actual extent of trafficking in human beings in Norway is not known. The majority of cases uncovered in Norway to date have involved non-Norwegian females trafficked for the purpose of sexual exploitation. Thus, surveys on prostitution might give some indication of the extent of the problem. The number of foreign women in prostitution in Norway has increased dramatically over recent years. According to the National Centre on Prostitution

(known as the Pro Centre), there were no foreign women in outdoor prostitution in 1998. Today approximately 70 percent of the women are of foreign origin. In 2005, the Pro Centre, through their outreach activities, registered approximately 1 500 women involved in prostitution. The women originate from more than 40 different countries in the former Soviet Union, Eastern and South Eastern Europe, Asia, Africa and Latin America. The top five countries represented in out-door prostitution in 2005 were Nigeria, Bulgaria, Estonia, Lithuania and Poland.

116. Not all foreign women working in prostitution are victims of trafficking, but there are reasons to believe that many women of foreign origin are assisted by pimps and criminals to travel to and stay in Norway.

117. Another indicator of the extent of the problem is the number of cases reported by the police. According to police statistics, 32 women (30 adults and two minors) were identified as possible victims of trafficking in 2005.

Measures taken and planned to combat trafficking in human beings

118. In February 2003, the Norwegian Government launched its first National Plan of Action to Combat Trafficking in Women and Children (2003-2005). The plan involved nine Ministries, who were given responsibility for implementing a total of 23 measures in their respective areas of competence. 90 percent of the total budget of 13 million euros was spent in the countries of origin and transit.

119. A revised National Plan of Action to Combat Trafficking in Human Beings (2005-2008) was launched in June 2005. Seven ministries, in close cooperation with five directorates, a number of municipal bodies, research institutions and almost 30 NGOs, will implement the 22 measures contained in the Plan.

120. Norway ratified the UN Convention against Transnational Organized Crime and its three supplementary protocols on 23 September 2003. Norway signed the Council of Europe's Convention on Action against Trafficking in Human Beings in May 2005, and is presently preparing its ratification.

121. All measures in the action plans are implemented on the basis of Norway's obligations under international law and human rights principles, and observe the gender equality principle. The special needs of children are taken into account in all initiatives.

122. The purpose of both Action Plans is to enhance multidisciplinary cooperation and to facilitate a concerted effort to prevent trafficking in human beings, protect victims, and detect and prosecute traffickers.

123. At the international level, priority is given to initiatives aimed at developing and implementing effective normative frameworks, support to projects curbing recruitment, and promoting bilateral and multilateral police cooperation and judicial reform.

124. At the national level, assisting and protecting victims of trafficking has the highest priority. The measures taken include establishing a national victim identification and protection system, improving assistance to victims, ensuring safe return and rehabilitation in the country of origin, and enhancing efforts to detect, investigate and prosecute traffickers.

125. According to the current Plan of Action, victims of trafficking should be regarded as victims of a crime, and therefore have the right to protection and assistance. The Plan of Action explicitly states that trafficking in human beings constitutes a violation of human rights and that the State is responsible for protecting all persons within its borders against violations of their human rights. Initiatives in the following areas have either already been implemented or are in development:

- Improved access to sheltering and information: Following an assessment of all service providers, the Government, in cooperation with public service providers and NGOs, identified and compiled a list of shelters and other suitable accommodation. A project coordinator has been employed to facilitate access to accommodation and rehabilitation services appropriate to the needs of individual victims. The coordinator is responsible for assisting the police, immigration authorities, social and health authorities and NGOs with referral to the appropriate services. A 24-hour telephone information line and a website with information about trafficking victims' rights have been set up. In 2005, 70 women were referred to the project, and 17 accepted shelter and assistance.

- Support to outreach teams: In order to identify potential victims of trafficking for the purpose of sexual exploitation, the Government is supporting outreach teams amongst prostitutes, which distribute information on and promote awareness of the availability of health services and legal counselling. The aim is to help victims of trafficking to contact the police and other agencies that can provide protection and assistance,

- Improved access to social and health services: Following the assessment of public and private services, a social service centre has been designated to ensure that trafficking victims receive financial, medical and psychosocial support. The Government has identified the need to further clarify victims' access to social and health services. Thus the current Plan of Action includes several measures aimed at further improving access to specialised health services, social activities, education opportunities and job training etc.

- Special protection measures for victim-witnesses: Access to the witness protection scheme for trafficked women and children is based on a risk analysis, which consists of a threat, evidence and personal ability assessment. Based on the results of this

assessment, the police cooperate with social service providers, experts and NGOs to meet the witness's need for safety, with the aim of helping her to return to a life where she does not need organized protection.

- Legal counselling and assistance to victims: These services are provided by a public legal aid lawyer, or by specialist NGOs. However, the Government has identified the need to improve the regulations and information available on legal counselling and assistance, and the current Plan of Action therefore includes measures aimed at achieving this

- Return and rehabilitation: Norway also supports several international organisations and local NGOs which provide shelter and rehabilitation for trafficked persons in their countries of origin. This support is not linked to whether the trafficked person has returned from Norway or any other country. Norway is furthermore developing a pilot project aimed at ensuring the safe return of victims of human trafficking to their home countries by providing support for resettlement and other forms of protection in their countries of origin.

- Several measures are taken to enhance co-operation and competence building:

  At the strategic level, an inter-ministerial working group on trafficking in human beings, representing six ministries, meets on a monthly basis. This working group reports twice a year to a board of deputy ministers, which decides on further action.

  At the operational level, a national referral network for assistance and protection has been established. The network is composed of designated personnel from the police, immigration authorities, social services, and six NGOs, and reports to the inter-ministerial working group. The network is responsible for assisting first-line officers in responding to individual cases. In addition, two multidisciplinary task forces have been established to 1) develop guidelines for identifying and interviewing potential victims of trafficking; and 2) to resolve issues relating to social assistance and healthcare for trafficking victims.

  Multidisciplinary training programmes are being developed, based on a pilot project in Oslo. Every six months, police, immigration authorities, public social service providers and NGOs in Oslo meet to define roles and responsibilities in responding to individual cases, and to address issues of concern. At the same time, training sessions have been organized for police, shelter staff and immigration officials. The intention is to develop these further in future.

A national project manager will be employed to assist first-line officers in individual cases, and identify, plan and mobilize assistance and protection for victims of trafficking.

Detection and prosecution of traffickers

126. In order to strengthen law enforcement both in Norway and countries of origin, the following measures have been implemented thus far:

- The Norwegian Penal Code contains a specific provision on trafficking in human beings, which entered into force on 4 July 2003. The provision (section 224) is inspired by Article 3 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. Section 224 reads (translation):

"§ 224. Any person who by force, threats, misuse of another person's vulnerability, or other improper conduct exploits another person for the purpose of

a) prostitution or other sexual purposes;

b) forced labour;
c) war service in a foreign country; or

d) removal of any of the said person's organs,

or who induces another person to allow himself or herself to be used for such purposes, shall be guilty of human trafficking and shall be liable to imprisonment for a term not exceeding five years.

Any person shall be liable to the same penalty who:

a) makes arrangements for such exploitation or inducement as is mentioned in the first paragraph by procuring, transporting or receiving the person concerned;
b) in any other way aids and abets the inducement or exploitation; or

c) provides payment or any other advantage in order to obtain consent to such exploitation from any person who has authority over the aggrieved person, or who receives such payment or other advantage.

Any person who commits an act referred to in the first or second paragraphs against a person who is under 18 years of age shall be liable to a penalty independently of any use of force or threats, misuse of a person's vulnerability, or other improper conduct.

Gross human trafficking is punishable by imprisonment for a term not exceeding ten years. In deciding whether the offence is gross, special importance shall be attached to whether the

person exposed to the act was under 18 years of age, whether gross violence or coercion was used or whether the act resulted in considerable gain."

- In addition, several provisions in the Penal Code and other statutes can be applied to acts committed in connection with the trafficking of women and children, although these are now largely superceded by section 224.

- The Government has earmarked resources to strengthen both preventative and reactive law enforcement in Norway and countries of origin. In Norway, organized crime divisions dealing with the investigation and prosecution of trafficking have received additional funding. The National Criminal Investigation Service has developed a national police intelligence project, which identifies the extent and patterns of trafficking throughout the country. In addition, six research projects have been initiated to compile a "knowledge bank" on the human trafficking situation in Norway. These projects will form the basis of further strategic analyses and targeted activities.

- In order to improve the knowledge of law enforcement officers, the Norwegian police have received standing orders for operational personnel specifically on trafficking in women. In addition, countrywide police training on trafficking in women and children has been conducted, and some police districts have organized local training for first-line officers. The Police Directorate has recently issued an investigations manual on human trafficking.

- Norway has also contributed financial resources to equipping and training law enforcement officers in South Eastern Europe. Norway is chairing the Interpol working group on trafficking in women. In addition, the Norwegian police are participating in the Baltic Sea Task Force's expert group on trafficking in women as well as the Task Force against trafficking in human beings in the Barents Euro-Artic region.

Efforts to prevent recruitment of women and children

127. The recruitment of women and children mainly takes place outside Norwegian borders. Norwegian efforts in the countries of origin aim to prevent women and children from being recruited, by promoting better standards of living, gender equality, education and raising awareness. Poverty reduction and giving greater emphasis to the rights of women and children, including access to education, land, property and capital, are foundational principles in Norwegian development cooperation efforts and projects.

128. Norway funds projects targeting groups that are vulnerable to recruitment by traffickers in Central, Eastern and South Eastern Europe, Russia, the Caucasus and Central and Southern Asia. Norway finances the development and dissemination of information about trafficking in human beings and the criteria for imigrating legally to Norway to women in at-risk areas. This is done in cooperation with NGOs and, international organizations.

Efforts to reduce the demand that creates the market for trafficked human beings

129. The Civil Service Act gives clear ethical guidelines for Government employees, prohibiting the purchase and acceptance of sexual services. Civilian personnel assigned to international operations receive information on the Civil Service Act and the implications of violations of these regulations as part of a one-week pre-deployment programme. The Government is encouraging debate and dialogue on the ethical guidelines, and encourages private organizations to adopt similar rules.

130. The Norwegian Armed Forces' Codes of Conduct for personnel engaged in peacekeeping operations include a provision prohibiting the purchase of sexual services and relations that may weaken confidence in the impartiality of the force. Violations of the rules can lead to disciplinary sanctions, immediate recall, fines and have consequences for subsequent career development. Any armed forces personnel suspected of involvement in trafficking would be subject to regular investigation and possible prosecution under the Penal Code.

131. The Norwegian Defence Education Centre (NODEC) is developing comprehensive teaching material on human trafficking. The subject will be a part of the syllabus at all of NODEC's educational institutions. The materials will accommodate the different levels of military education, covering all military personnel from recruits to officers. Norwegian military personnel have also contributed to the development of NATO teaching modules, which may be used by all allied and partner countries.

132. Norway practices zero tolerance for the abuse of women and children in conflict areas when participating in, or financing, emergency relief and other operations. This is communicated to national NGOs and international organizations receiving Norwegian funding. Violations have consequences for future funding. The Norwegian Resource Bank for Democracy and Human Rights, on the Norwegian Government's behalf, makes qualified personnel available for international assignments which promote democracy and respect for human rights. Personnel receive a lecture on trafficking in human beings as part of pre-deployment training.

133. At the international level, efforts are also made to develop and implement an effective normative framework. Norway supports and works with many UN organizations, the OSCE, the Stability Pact for South Eastern Europe, the CoE, IOM, Interpol, Europol, local NGOs and in parallel with EU efforts. Together with the US, Norway has contributed to the development of a NATO policy to combat human trafficking. In the NordicBaltic context

Norway participates in the Council of the Baltic Sea States, and is active both in the Barents region and under the Nordic Council.

134. In Norway, the Government is developing and financing information measures targeted at purchasers and potential purchasers of sexual services. The purpose is to help change attitudes by generating a debate on the connection between the purchase of sexual services and human trafficking for sexual exploitation.

Information on cases where persons have been charged for trafficking in human beings

135. The first convictions for human trafficking in Norway were obtained on 20 September 2005. A 26-year-old Estonian and a 42-year-old Norwegian from Trondheim were sentenced to five and three years respectively. They were found to have exploited at least six vulnerable women for the purposes of prostitution, over the course of one and a half years. One of the women was 16 years old when she was recruited in Estonia. The local contact in Estonia was convicted for violation of Penal Code section 224, subsection four, as he knew that the victim was under the age of 18. The judgement emphasised the victims' difficult situation in their home country, that the victims were being controlled and had limited freedom of movement while in Trondheim, that one of the victims was under 18 and that the proceeds were divided approximately 70/30 between the traffickers and the victims. In reality, the women were only allowed to keep 15 percent of the proceeds, as they had to pay for expenses such as advertisements, telephones etc. themselves.

A suspected ringleader of this organization was extradited from Estonia to Norway in June 2005, and tried in October 2005. He was convicted and sentenced to five years and six months by the Trondheim court of first instance.

136. In a 2005 judgement of the Oslo first instance court, a man from Georgia was sentenced to 11 years for inter alia human trafficking, deprivation of freedom and rape. Others who were involved in this case were convicted for inter alia procurement, illegal renting and for inflicting bodily harm. "These convictions are the subject of ongoing appeals."

Residence permits for victims of trafficking

137. Asylum seekers who claim to be victims of trafficking are given an ordinary individual assessment of their protection needs. In principle, they can qualify for refugee status and asylum, or receive a permanent or temporary residence permit on humanitarian grounds. According to recent figures from the Norwegian Directorate of Immigration, since November 2003 the immigration authorities have considered 18 cases in which an asylum

seeker has claimed to have been the subject of trafficking. In five of these cases, refugee status and asylum were granted, in six cases permanent residence permits on humanitarian grounds were granted, and in one case a temporary residence permit on humanitarian grounds was granted . Six applications were rejected.

138. According to Norwegian immigration rules, victims of trafficking who do not have Norwegian residence permits may be given a reflexion period of 45 days. This period can be renewed once.

139. The Government is planning to further improve the situation for victims of trafficking. It has been suggested that it should be easier for victims of trafficking to obtain a temporary residence permit. The length of and conditions for granting a temporary permit are therefore presently being considered. A new Immigration Act is also being prepared. As the White Paper on the new Act has not yet been published, however, it is too early to tell whether the new Act will explicitly regulate the right to residence permits for victims of trafficking. What is certain is that the criteria for granting refugee status to victims of trafficking will be further clarified in connection with new Act's preparation.

VII. Right of liberty and security of persons (Art. 9)

16. Has the State party undertaken measures other than those mentioned in para 86 of the fifth periodic report, to review the enabling legislation regarding the excessive length of pre-trial detention? Has also the State party addressed the concern of the Committee that the liberty of persons may be withdrawn by administrative detention? What action has the State party undertaken to guaranteeing full compliance with all provisions of article 9 of the Covenant? (Previous concluding observations, para.11)

140. In order to prevent pre-trial detention for excessive periods of time, the Criminal Procedure Act was amended in 2002. Section 185 now obliges the courts to be more proactive in deciding whether to prolong the detention period. The revised provision states that the prosecution must inform the court when the investigation will be finished, and what investigative steps remain. The relevant authorities will closely monitor developments in this area to check whether the amendments have the intended effect.

141. As stated in para. 86 of the fifth periodic report, section 183 of the Criminal Procedure Act was amended in 2002. That reform has not yet come into force, as the finalisation of regulations to ensure that there is no increase in the time detainees spend in police establishments is pending. The aim is to ensure that no detainee has to remain in a police establishment for more than 48 hours after arrest.

142. The Norwegian Government considers the Mental Health Care Act to be in accordance with Article 9 of the Convention on Civil and Political Rights. After an administrative decision to impose compulsory care is made, the legislation contains safeguards in the form of reviews of the decision. To a large extent, this is described in Norway's fifth periodic report, at paras. 94 and 96. The supervisory system operates as follows:

- Notification must be sent to the Supervisory Commission (which is an autonomous body, led by a lawyer) promptly. It must, as soon as possible, check whether the correct procedure has been followed and that the decision is based on an assessment of the fundamental criteria set out in the Mental Health Care Act.

- The patient may, at any time, complain to the Commission. The patient is granted free legal aid in relation to his or her complaint. The Commission should, if possible, make a decision on the matter within two weeks of receiving the complaint. Patient appeals against decisions of the Commission are heard by the courts, which are required to give high priority to such appeals. Patients are also granted free legal aid for appeals of this kind.

- Even if the patient does not file a complaint, the Commission must review the matter after three months to ensure that compulsory treatment remains necessary.

143. The Government is currently working on proposals to amend the Mental Health Care Act. Neither the system of decision-making, nor the procedure of review, is among the issues proposed for amendment. On the contrary, these issues are regarded as adequately regulated. The proposed reforms mainly concern enforcing patients' general mental health care rights.

VIII. Freedom of thought, conscience, religion and belief

(art. 18)

17. Since the submission of the fifth periodic report, have there been any developments as regards the State party's implementation of the Committee's recommendation to amend section 2 of the Norwegian Constitution, which states that individuals professing the Evangelical Lutheran religion are bound to bring up their children in the same faith?(Previous concluding observations, para. 13 and fifth periodic report, para.175)

144. Since the submission of the fifth periodic report, there has been no formal proposal to the Parliament to amend the second section of Article 2 of the Constitution. However, on 31 January 2006, the Government-appointed committee that has been reviewing the relationship between State and Church in Norway submitted its report (NOU 2006:2). The committee unanimously proposed that the second sentence of the second section of Article 2 in the Constitution should be repealed. The Government will consider how to follow up on the committee's recommendations.

IX. Freedom of opinion and expression

(art.19)

18. What steps has the State party taken to address the Committee's concern about the review and reform laws relating to criminal defamation? Please also provide further information regarding the new law to amend section 135 a) of the Penal Code with a view to provide individuals with adequate protection against racist expressions. (Previous concluding observations, para. 14 and fifth periodic report, para. 178-188 and 194.)

Laws concerning protection against racist expressions:

145. As outlined in the fifth periodic report, it has been debated whether section 135a of the Penal Code provides adequate protection for minorities against racial abuse.

146. The Committee on the Elimination of Racial Discrimination (CERD), in an opinion dated 15 August 2005, concluded that Norwegian law, as applied in the Norwegian Supreme Court judgement of 17 December 2002, (published in Norwegian Supreme Court Reports 2002, p. 1618 ("Sjøliesaken")), violates Article 4 of the Convention on the Elimination of Racial Discrimination.

147. There have been some important amendments to the Norwegian legal framework subsequent to this judgement. Some of these amendments are outlined in the fifth periodic report but, in view of the Human Rights Committee's request, further information and analysis is provided below.

148. As mentioned in the fifth periodic report, the Norwegian Parliament completely revised section 100 of the Constitution on 30 September 2004, with immediate effect. The revisions allow Parliament a wider scope to enact laws that prohibit racist and other hate speech. Even though the new section 100 has strengthened the constitutional protection of free speech in a number of fields, constitutional protection for racist and hate speech was weakened. The intention behind these amendments was clearly stated in a Parliamentary report (St.meld. nr.

26 (2003–2004), page 72) on balancing free speech against various competing interests (translation):

"The Ministry is of the opinion that a new Constitutional provision of free speech should enable extended protection against racist and other hate speech."

149. The ability to strengthen protection against racist and other hate speech provided for in the new Constitutional provision is reflected in recent amendments to section 135 a of the Penal Code. The amended provision entered into force on 1 January 2006, and reads as follows (translation):

"Any person who wilfully or through gross negligence publicly makes a discriminatory or hateful utterance is liable to fines or imprisonment for a term not exceeding three years. An utterance is considered to be made in public if it is made in such a way that it could easily reach a large numbers of people, cf. section 7, No. 2. The use of symbols is also considered to be an utterance. Aiding and abetting another in such offences is subject to the same penalty.

In this code a discriminatory or hateful utterance means threatening or insulting another person, or inciting hatred, persecution or contempt on the basis of their:

a) skin colour or national or ethnic origin;

b) religion or life stance; or

c) homosexuality, lifestyle or orientation."

150. These amendments have widened the scope of section 135 a, and the provision now covers more situations than before. Before the amendments, the racist utterance had to be made publicly, or otherwise be disseminated among the public, to be punishable. Under the amended section 135 a, it is sufficient that the expression is made in a way that is suited to reach a large number of people. This means that section 135 a can apply to messages displayed on open Internet pages or on a notice board, as well as those expressed in television or radio programmes regardless of whether a large number of people have actually seen, heard or read the message. Furthermore, not only intentional, but also grossly negligent violations of section 135 a can be punished. This amendment makes the provision more effective. The maximum custodial sentence for a violation of section 135 a has been increased from totwo to three years.

151. Furthermore, a new Act that prohibits discrimination on the basis of ethnicity, religion etc. (the Discrimination Act) has recently been adopted (see answer to question 5 above). Section 2 of that Act incorporates the UN International Convention on the Elimination of All Forms of Racial Discrimination into Norwegian law.

152. Moreover, the Norwegian Government has established mechanisms to combat discrimination (see answer to question 5 above). The Equality and Anti-Discrimination Ombud will also monitor implementation of the International Convention on the Elimination of All Forms of Racial Discrimination.

153. As outlined above, the amendments to section 100 of the Constitution and section 135a of the Penal Code, as well as the introduction of the Discrimination Act (and its enforcement mechanism), have enhanced the protection for individuals against racist expressions. In addition, the CERD opinion (discussed in paragraph 141 above), will be an important legal source when interpreting section 135 a.

154. Subsequent to publication of the CERD opinion, the Norwegian Government issued a circular letter on 9 December 2005. The circular reviews the opinion and gives guidance on the future interpretation of section 135 a, emphasizing the importance of the opinion to such interpretation.. An English translation of the circular is attached.

155. The Norwegian Government therefore considers its domestic legal protection against racist speech as guaranteed under Article 26 of the Covenant to be adequate.

Criminal defamation

156. No changes have been made to the legal framework relating to criminal defamation (Penal Code sections 142 and 247). However, as emphasized in the fifth periodic report at para. 194, the Norwegian courts take into account international obligations when applying these provisions.

157. It should also be mentioned that the Ministry of Justice is in the process of drafting a new Norwegian Penal Code. The provisions concerning defamation will be reviewed as part of this process.

X. Rights of minorities (art. 27)

19. The report contains information on the Sami people, but it makes no reference to the situation of the East Sami people. In light of information before the Committee, the East Sami people are not represented in the Sami Assembly and its special situation was not addressed in the Finnmark Act. Please provide further information in this regard.

158. The East Sami or "Skoltsami", as some preferin Russia. The borders between Norway, Finland, and Russia were settled in 1826, and the border-treaty The East Sami or "Skoltsami", as some prefer to be called, have traditionally lived in Sør-Varanger

municipality in Norway, Enare municipality in Finland and neighbouring districts divided the East Sami territory between the three states, leaving the traditional summer reindeer-grazing land and fishing waters of a diminished group of East Sami within Norway's borders. Due to their small numbers and affiliation to the Russian-Orthodox Church and Russian culture, the East Sami in Norway became very vulnerable to norwegianization and the impact of Finnish immigrants from the mid-1800s onwards. As reported by the Sami Rights Committee (NOU 1997:4), East Sami interests at that time came into conflict with the overriding national interest of establishing a loyal residential Norwegian population and exploiting the natural resources in these border areas. Records show how the East Sami lost both their traditional fishing rights and reindeer breeding areas.

159. The special interests of the East Sami minority are not addressed in the Finnmark Act. The decision not to establish specific rights for the East Sami was based on the principle of non-discrimination between ethnic groups within the same area. The East Sami will, however, along with all other aggrieved individuals or groups, have the opportunity to submit claims to the commission and the court that are to be established under the Finnmark Act to deal with claims relating to land rights within the county of Finnmark.

160. To improve protection of the special East Sami culture, the Government, based on a proposal by the Sameting, has decided to establish an East Sami museum. It is hoped that the museum will also serve as a cultural institution to aid the survival of the East Sami culture. However, due to the small population and the present stage of linguistic skills in the East Sami language, there is a need to establish cross-border cooperation with the East Sami communities in neighbouring countries, if measures are to be put in place for the revival of the East Sami language and culture. Norwegian authorities would welcome and support such initiatives. The issue is on the agenda of the permanent Nordic Governmental Liaison Committee on Sami Affairs and is the subject of bilateral talks with Finnish governmental officials.

20. Please provide comments on the following alleged deficiencies of the Finnmark Act: (a) Breach of the 1981 agreement between the Government and Sami organizations; (b) Non-recognition of the Sami peoples right to land and resources as compared to the non-Sami population in the region; (c) Expansion of the rights of non-Sami people to use Sami territory; (d) Persistence of the right to expropriate land on Sami territory for public purposes without compensation; (e) Absence of identification of areas where Sami have the right to ownership and possession in accordance with international law.

161. The various parts of the question are addressed in turn below.

a) Breach of the 1981 agreement between the Government and Sami organizations.

An Act concerning legal relations and management of land and natural resources in the county of Finnmark (the Finnmark Act) was adopted on 17 June 2005.

The formal adoption of the Act was the result of a lengthy process that had been ongoing since 1980. At that time, the Government appointed the Sami Rights Commission, which had a mandate to investigate and prepare proposals for new legislation. The new legislation was to meet Sami demands for fairer legislation and reflect the Sami's historic and cultural affiliation with and traditional rights to their lands and waters.

The process was initiated by the protests of Sami organizations against a parliamentary decision to authorize the building of a hydro-electric dam in the Alta-Kautokeino river. In a meeting with the leaders of the Sami organizations in February 1981, the Minister of Local Government promised that the Government would not authorize or allow any further projects in the Sami areas of Finnmark before Sami land rights had been settled.

The proposal for the Finnmark Act was presented to the Storting in April 2003. The Standing Committee on Justice, in preparing the final legal text, for the first time in its history, consulted both the Sameting and Finnmark County Council. Both the Sameting and the County Council were given an opportunity to state their opinion on the final text before the Act was finalised. The consultations with the Sameting were carried out under the provisions of Article 6 of ILO-Convention 169 on the Rights of Indigenous and Tribal peoples in Independent Countries. This states that, whenever consideration is being given to legislative or administrative measures which may affect people directly, governments must consult the people concerned through appropriate procedures and, in particular, through their representative institutions.

162. b) Non-recognition of the Sami people's right to land and resources as compared to the non-Sami population in the region; (c) Expansion of the rights of non-Sami people to use the Sami territory.

Section 1 of the Finnmark Act states that its purpose is to facilitate the management of land and natural resources in the county of Finnmark. Such management should be conducted in a balanced and ecologically sustainable manner for the benefit of the inhabitants of the county and, in particular, should support Sami culture, reindeer husbandry, commercial activity and social life.

Section 3 of the Act states that it must be implemented within the framework of ILO-Convention 169.

The Act establishes a new body, called the Finnmark Estate, to which ownership of approximately 96 % of the land within the county's borders (equating to approx. 45 000 square kilometres), will be transferred by the State. The Finnmark Estate will have a board consisting of three members appointed by the Sameting and three members appointed by Finnmark County Council.

The Act authorizes the Sameting to adopt guidelines concerning decisions of the board that could affect traditional land use. A decision made under these guidelines can be referred to the Sameting by a minority of two board members. If the Sameting does not accept the majority's decision or refuses to decide on the issue, a united majority of four members may present the issue to the King (i.e. the Government) who decides whether the decision will be approved. The Act sets out special procedures intended to ensure that conflicting positions do not prevent the board from making necessary decisions. These procedures involve giving shifting [preferences] [Q: does this mean "voting power"? If so, that should be used instead of "preferences".] to either the Sameting or the County Council, depending on whether the issue relates to the Inner or Outer part of the county.

163. d) Persistence of the right to expropriate land on Sami territory for public purposes without compensation.

Section 19 of the Act states that areas owned by the Finnmark Estate may be designated as national parks. Such a designation entails the prohibition of certain types of activity in the areas to which the decision applies. When deciding regulations for the use of the park, importance is attached to continued traditional use. Both the Finnmark Estate and those having usufructuary rights which are affected by the decision may claim compensation for their economic losses.

164. e) Absence of identification of areas where Sami have the right to ownership and possession in accordance with international law.

Section 5 of the Act states that the Sami have collectively and individually, by prescription or by traditional usage of land and waters, acquired rights in Finnmark. The Act does not interfere with private or collective rights based on prescription or traditional usage. The rights held by Sami reindeer-herders on the basis mentioned in the first paragraph of section 5 of the Act, or pursuant to the Reindeer Herding Act, are not reduced by this Act.

To decide on the extent and the content of the rights acquired by the Sami or others based on prescription or traditional usage, the Act provides for a commission to be established to investigate such claims and for a special court authorized to decide in these matters to be set up. (See also paragraph 154 above.)

Section 5 was adopted with reference to the obligations laid down in Article 14, section 1 of the ILO-Convention, which calls for recognition of indigenous peoples' land rights. The decision to set up a special commission and court was made under Article 14, section 2, which sets out the obligation to take such steps as are necessary to identify the lands traditionally occupied by the peoples concerned.

XII. List of appendices

Appendix 1: Act of 17 June 2005 No. 85 relating to Legal Relations and Management of Land and Natural Resources in the County of Finnmark (the Finnmark Act).

Appendix 2: The Finnmark Act – A Guide (not yet published).

Appendix 3: Procedures for Consultations between Central Government Authorities and the Sami Parliament.

Appendix 4: Act of 3 June 2005 No. 33 on Prohibition of Discrimination based on Ethnicity, Religion, etc. (the Anti-Discrimination Act) (unofficial translation).

Appendix 5: Act of 10 June 2005 No. 40 on the Equality and Anti-Discrimination Ombud and the Equality and Anti-Discrimination Tribunal (the Anti-Discrimination Ombud Act).

Appendix 6: Circular No. G-11/2005 of 9 December 2005 on the Opinion dated 15 August 2005 of the Committee on the Elimination of Racial Discrimination.

Appendix 7: Act of 9 June 1978 No. 45 on Gender Equality (amended inter alia by the Act of 10 June 2005 No. 38).

Appendix 8: Act of 4 April 2003 No. 80 on an introductory programme and Norwegian language instruction for newly arrived immigrants (the Introduction Act) (amended by the Act of 21 December 2005 No. 134).

Appendix 9: Human Rights 2004/2005: Annual Report on Norway's Efforts to Promote Human Rights.